REMARKS

Claims 8-21 stand rejected under 35 U.S.C. §112, first paragraph as not appropriately complying with the written description requirement. Claims 8-9, 12-13, 15-17 and 19-24 stand rejected under 35 U.S.C. §103(a) as being unpatentable over US patent no. 6,591,272 (hereinafter Williams) in view of US patent no. 6,859,931 (hereinafter Cheyer). Claims 10, 11, 14 and 18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Williams in view of Cheyer and further in view of US patent application publication No. 2003/0225801 (hereinafter Devarakonda). Reconsideration of the rejections and allowance of the pending claims are requested in view of the following remarks.

Claims 1-7 were previously canceled. Claims 8-24 stand pending.

With regard to the rejections under Section 112, first paragraph, applicant notes that M.P.E.P. 2173.05(i) states that the current view of the courts is that there is nothing inherently ambiguous or uncertain about a negative limitation. M.P.E.P. 2173.05(i) is also clear that the mere absence of a positive recitation from the disclosure is not basis for exclusion from the claims. M.P.E.P. 2173.05(i) further notes that a lack of literal basis in the disclosure for a negative limitation may not be sufficient to establish a *prima facie* case for lack of descriptive support.

Applicant will quote below substantial portions of the present disclosure to show that this disclosure would reasonably convey to one skilled in the art the claimed subject matter. In fact, the Examiner's understanding of the phrase "without translating" (as discussed in the Office Communication) is indicia that the present disclosure would reasonably convey to one skilled in the art the claimed subject matter. As the Examiner reconsiders this issue, applicant kindly asks the Examiner to bear in mind that an application need not contain a word-for-word description of the claimed invention to satisfy the written description requirement. That is, the claims need not be identically written as in the disclosure of the application.

In the instant invention, the disclosure states at paragraph 4 of the U.S. patent application publication that the object of the invention is to simplify the exchange of data between different software applications. At paragraph 15, the disclosure states that the

invention is based on the idea of describing and structuring complex, preferably hierarchically-structured, data sets with a uniform object model. All elements of the type Object have the same basic structure but can be used at different levels of granularity. The structure of a superordinate element of type Object is thus reflected in the structure of a subordinate element of type Object. The entire object model thus has an almost fractal structure right down to its lowest level. The data sets are structured by replication of a few basic patterns and basic structures. This will be demonstrated below using the example of a hardware project 200 with its structural layout (see FIG. 2) (Object, Feature, etc.) enables common data structures to be achieved for all data sets modeled in this way, with which a universal understanding is possible. Furthermore any mapping requirements not yet currently known can be fulfilled, which are then incorporated into this basic understanding of the uniformity and can be understood by other applications. Applications which adapt to this uniform format in the future then automatically enjoy compatibility with all previous applications.

At paragraph 32, the disclosure states that by using this principle of representation (object 100, feature 20, etc.) it is possible to achieve common basic structures for data sets modeled in this way, with which a universal understanding is possible, not to mention enabling applications to access the contents or navigate within the networks of objects in a uniform way. Furthermore any mapping requirements not yet currently known can be fulfilled, which are then incorporated into this basic understanding of the uniformity and can be understood by other applications. Applications which adapt to this uniform format in the future then automatically enjoy compatibility with all previous applications.

At paragraph 43, the disclosure states that data sets 210, as they occur in the engineering 220 of automation systems 230, are procured as extensive complex hierarchical structures. To make their structural content uniform and transparent for others, a simple object model 10 in accordance with invention can be defined as a central, generic basic element of representation. This will be demonstrated below using the example of a hardware project 200 with its structural layout (see FIG. 2).

Applicant believes that one skilled in the art would have understood that the aspects of the present invention provide a universal understanding that enable distinct software applications to access contents or navigate within the networks of objects in a uniform way. That is, it provides a uniform structure that can be universally understood by other software applications. In fact, the Examiner's understanding of the phrase "without translating", as set forth in the context of the first two lines of page 13 of the Office Communication, is reasonably accurate and his rejection appears to be primarily based on the fact that the word "translate" does not literally appear in the disclosure. However, as noted above, any such literal requirement would be error since the correct test is whether the disclosure would reasonably convey to one skilled in the art the claimed subject matter. In view of the foregoing considerations, applicant respectfully submits that independent claims 8, 21 and 23 (presuming claim 23 is also being rejected under §112, first paragraph) recite subject matter in compliance with §112, first paragraph and this basis of rejection of these independent claims (and claims depending there from) should be withdrawn.

Applicant will now discuss the rejection of claims based on the Williams/Cheyer combination of references. Applicant notes that Cheyer's principle of operation, as described by Cheyer, is substantially different from the structural and/or operational relationships claimed in the present invention as well as the principle of operation of Williams. In Cheyer, in the event an incompatible protocol arises, Cheyer first translates an incompatible request for service to a bridge agent, then translates the incompatible request into the Intelligent Communications Language (ICL), then Cheyer transmits the translated incompatible request to the facilitator. See for example Cheyer at column 29, lines 54-67 through column 30, lines 1- 9. See also each of the independent claims of Cheyer respectively reciting one or more translating steps (claims 1, 10, and 19). See also Cheyer at col. 8, lines 12-13; col. 8, line 25; col. 14, line 24; col. 15, line 40; col. 18, line 14; col. 24, lines 23-24; col. 25, line 20; col. 28, line 31; col. None of the foregoing is applicable to the claimed invention or to Williams. That is, the concept of translating described by Cheyer permeates virtually throughout the entire disclosure of Cheyer. Applicant respectfully submits that it is disingenuous by the

Examiner to characterize the translating requirements of Cheyer as a mere alternative, being that Cheyer's himself viewed such limitations as being significant enough to be included in each of the independent claims of Cheyer. In view of the foregoing considerations, applicant submits that Cheyer either 1) fails to teach or, in the alternative, 2) teaches away from the claimed structural and/or operational relationships being that Cheyer requires one or more translations of the incompatible request, whereas in the claimed invention no translation is needed since each uniformly understood object is free of the one or more incompatible data exchange structures in the plurality of distinct software applications to perform the data exchange between the plurality of distinct software applications.

In view of the foregoing considerations, applicant respectfully submits that the combination of Williams and Cheyer fails to constitute an appropriate *prima facie* combination of references for sustaining the rejection of claim 8, under the applicable §103 statutory requirements. More particularly, Williams and Cheyer, singly and in combination, fail to teach or suggest the specific structural and/or operational relationships of the claimed invention, and, consequently, this basis of rejection of claim 8 (and claims respectively depending from such a claim) should be withdrawn.

In connection with the rejection of claims 10, 11, 14 and 18 under 35 U.S.C. §103, over Williams in view of Cheyer and further in view of Devarakonda, applicant believes that Devarakonda fails to remedy the fundamental deficiencies of Cheyer noted above. Accordingly, applicant believes that the rejection of claims 10, 11, 14 and 18 should also be withdrawn.
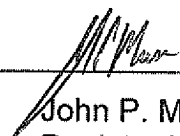
Conclusion:

It is respectfully submitted that each of the claims pending in this application recite patentable subject matter and it is further submitted that such claims comply with all statutory requirements and thus each of such claims should be allowed.

The commissioner is hereby authorized to charge any appropriate fees due in connection with this paper, including the fees specified in 37 C.F.R. §§ 1.16 (c), 1.17(a)(1) and 1.20(d), or credit any overpayments to Deposit Account No. 19-2179.

Respectfully submitted,

Dated: _____4/16/08_____   By: _____

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